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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,211	11/12/2003	Roger W. Phillips	48930-01701	6324

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/706,211

Applicant(s)

PHILLIPS ET AL.

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/21/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## RESPONSE TO AMENDMENT

1. Claims 1 and 7 are pending in the application, claims 2-6 have been cancelled.
2. Amendments to the claims, filed on May 24, 2005, have been entered in the above-identified application.

## REJECTIONS

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 103*

4. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uyama et al. (5,700,550) in view of Coombs et al. (U.S. Patent No. 5,214,530).

Uyama discloses a transparent hologram seal comprising a transparent base member, a release layer, a hologram forming layer, transparent color shifting evaporated layers, a color layer an anchor layer and an adhesive layer (*figure 8*).

The color layer and anchor layer are optional (*col. 6, lines 46-47*). The colored layer includes at least a pigment vehicle for use in ink or paint (*col. 6, lines 35-39*).

The hologram forming layer may be formed of a thermoplastic resin such as polycarbonate, polystyrene or polyvinyl chloride (*col. 5, lines 46-58*).

The optical path length in the transparent evaporated layer is changed if an angle at which it is viewed is changed when a visible light ray of specified wavelength range is transmitted or

Art Unit: 1772

reflected, and the transmission light or reflected light is observed as a light of different color.

Therefore, even when the seal is superficially forged, it is easy to determine the real or imitation by observing a change in color caused by changing the viewing angle. In general, the spectral characteristic varies depending on the number of layers of the evaporated layer. *See column 6, lines 25-34.*

Uyama fails to disclose that the transparent color shifting evaporated layers comprises flakes comprising an absorber layer, a dielectric layer and a reflector layer.

Coombs discloses an optical variable interference device, which has an observable color change at different viewing angles. The device can be utilized in optically variable interference devices or optical shifters for a thin film design. Coombs design has made it possible to achieve additional observable colors. *See column 1, lines 10-24.*

The device comprises an absorber layer, a dielectric layer, an absorber layer, a dielectric layer, a reflector, a dielectric layer, an absorber layer, a dielectric layer, and an absorber layer (*figure 2*) that is broken into flakes (*col. 3, lines 55-57*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the optical variable interference device flakes of Coombs in the transparent color shifting evaporated layers of Uyama. One of ordinary skill would be motivated to do so because Coombs would provide Uyama with additional observable colors making it hard to forge.

***ANSWERS TO APPLICANT'S ARGUMENTS***

5. Applicant's arguments in the response filed May 24, 2005 regarding the 35 U.S.C. 103 rejection over Uyama in view of Coombs of record have been considered but are deemed unpersuasive.

Applicant's arguments regarding the parent application 09/351102, now patent no. 6,761,959 are moot since each application is reviewed and examined on their merits individually. Furthermore, Applicant's argument is moot since the claims of patent 6,761,959 are not identical to the instant claims.

Applicant further argues that Uyama does not teach that the color shifting coating layer is formed on the second surface of the substrate, opposite the first layer. The Examiner disagrees, as shown in figure 8 of Uyama the hologram layer is on the first surface of the substrate and the color shifting coating is on the second surface of the substrate opposite the first surface.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1772

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alicia Chevalier

8/1/05



HAROLD PYON  
SUPERVISORY PATENT EXAMINER

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8/5/05